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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/844,322	04/26/2001	Casey William Norman	1391-CON-00	1969

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IP GROUP OF DLA PIPER RUDNICK GRAY CARY US LLP  
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EXAMINER

FRANCIS, FAYE

ART UNIT PAPER NUMBER

3725

DATE MAILED: 05/17/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

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<b>Office Action Summary</b>	<b>Application No.</b> 09/844,322	<b>Applicant(s)</b> NORMAN ET AL.	
	<b>Examiner</b> Faye Francis	<b>Art Unit</b> 3728	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☒ Responsive to communication(s) filed on 09 December 2004.
- 2a) ☐ This action is **FINAL**.                      2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☒ Claim(s) 20-23, 25, 26 and 28-51 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 20-23, 25, 26 and 28-51 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

**Priority under 35 U.S.C. § 119**

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All    b) ☐ Some \*    c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- \* See the attached detailed Office action for a list of the certified copies not received.

**Attachment(s)**

- |  |   |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)  | 4) <input type="checkbox"/> Interview Summary (PTO-413)<br>Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)   | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152)             |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)<br>Paper No(s)/Mail Date <u>12/9/04</u> . | 6) <input type="checkbox"/> Other: _____  |

### DETAILED ACTION

1. The rejections under 35 U.S.C. 112, first and second paragraph is hereby withdrawn since it was made in error.

#### ***Claim Rejections - 35 USC § 103***

2. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

3. Claims 21-23, 25-26, 28, 30-34 are rejected under 35 U.S.C. 103(a) as being unpatentable over Kramer in view of O'Brian et al, hereinafter O'Brian and either Gross or Wion.

Kramer discloses most of the elements of these claims including a doll, a doll's garment (col 1 lines 51-57) formed from a flexible sheet of polymer plastic material between 2mm and 6 mm in thickness and with modulus of elasticity of less than 750 pound per square inch (less than 1 MN/M) and the doll's garment has a shape to fit over the external surfaces of at least a portion of the doll.

Kramer does not disclose that the doll's garment has a through hole, an elastic injection molded thermoplastic elastomer doll's garment and doll having articulated limbs as recited in claim 21 and 22, a finish selected from the group consisting of paint, varnish, and glitter as recited in claim 26, the garment is less than 8 cm in height as recited in claim 28 and a play set comprising a doll

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wherein the doll is articulated at a joint selected from the group consisting of the shoulders, elbows, knees, neck, and hips as recited in claim 34.

With respect to the doll's garment has a through hole to accommodate passage of a doll's head or limb(s), it is well known to make doll clothes that simulate real life, it would have been obvious to construct the doll clothing of Kramer such that it has a through hole for the head/limbs of the doll.

O'Brian in at least in some of the embodiment such as Figs 2 and 3 teaches the concept of providing an elastic injection molded thermoplastic elastomer [col 4 line 58 and also [[**re-sil-ient** (rî-zîl'yent) *adjective* 1. Capable of returning to an original shape or position, as after having been compressed.] according to Merrian-Webster's Collegiate Dictionary Tenth Edition] and (col 3 lines 54-56)] doll's garment. It would have been obvious to one of ordinary skill in the art at the time the invention was made to use the teaching of the injection molded thermoplastic elastomer of O'Brian with the doll's garment of Kramer for aesthetic reasons and to provide more flexibility.

Either Gross or Wion teaches that it is conventional to have articulated shoulders, elbows, knees, neck, and hips in a play set comprising a doll and a doll's garment or in a planar doll [two dimensional]. It would have been obvious to further provide the modified device of Kramer with the articulated doll as disclosed by either Gross or Wion, for the purpose of making the device more enjoyable for the children to play with.

With respect to claim 26: it is generally well known to decorate garment with glitter or paint. Therefore, it would have been obvious to further modify the

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Kramer's device to have glitter or paint for aesthetic reasons or as a matter of obvious design choice.

With respect to claim 28, it would have been obvious to further provide the garment of Kramer in the claimed height for the purpose of making the devices easier to play with and to accommodate for small dolls.

4. Claims 20, 29 and 35-37 are finally rejected under 35 U.S.C. 103(a) as being unpatentable over Kramer in view of O'Brian and either Gross or Wion as applied to claims 21-23, 25-28, 30-34 and further in view of Yasuda.

Modified device of Kramer has most of the elements of these claims but for the specific thermoplastic elastomer material.

Yasuda discloses using the thermoplastic elastomer containing styrene (col 3 lines 18-54) in order to make clothes for dolls as the constituent element of dolls). It would have been obvious to make the modified device of Kramer out of thermoplastic elastomer-containing styrene as taught by Yasuda in order to give the device more flexibility.

5. Claims 38-51 are finally rejected under 35 U.S.C. 103(a) as being unpatentable over Kramer in view of O'Brian, Yasuda and either Gross or Wion.

Kramer discloses most of the elements of these claims including a doll, a doll's garment (col 1 lines 51-57) formed from a flexible sheet of polymer plastic material between 2mm and 6 mm in thickness and with modulus of elasticity of less than 750 pound per square inch (less than 1 MN/M<sup>2</sup>).

Kramer does not disclose that the doll's garment has a through hole, an injection molded thermoplastic elastomer doll's garment, the specific

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thermoplastic elastomer material, a play set comprising a doll and a doll's garments wherein doll is articulated at elbows and knees as recited in claims 38 and 47. Additionally, Kramer does not disclose a finish selected from the group consisting of paint, varnish, and glitter as recited in claim 46.

With respect to the doll's garment has a through hole to accommodate passage of a doll's head or limb(s), it is well known to make doll clothes that simulate real life, it would have been obvious to construct the doll clothing of Kramer such that it has a through hole for the head/limbs of the doll.

O'Brian in at least some of the embodiment such as Figs 2 and 3 teaches the concept of providing injection molded thermoplastic elastomer (col 3 lines 54-56) doll's garment. It would have been obvious to use the teaching of the injection molded thermoplastic elastomer of O'Brian with the doll's garment of Kramer for aesthetic reasons and to provide more flexibility.

Yasuda discloses using the thermoplastic elastomer containing styrene (col 3 lines 18-54) in order to make clothes for dolls (as the constituent element of dolls). It would have been obvious to further make the device of Kramer out of thermoplastic elastomer-containing styrene as taught by Yasuda in order to give the device more flexibility.

With respect to claim 46: it is generally well known to decorate garment with glitter or paint. Therefore, it would have been obvious to further modify the Kramer's device to have glitter or paint for aesthetic reasons or as a matter of obvious design choice.

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Either Gross or Wion teaches that it is conventional to have articulated shoulders, elbows, knees, neck, and hips in a play set comprising a doll and a doll's garment or in a planar doll [two dimensional]. It would have been obvious to further provide the modified device of Kramer with the articulated doll as disclosed by either Gross or Wion, for the purpose of making the device more enjoyable for the children to play with.

### ***Response to Arguments***

6. Applicant's arguments filed 12/9/04 have been fully considered but they are not persuasive.

Applicant's argument with respect to the rejections under 35 U.S.C. 112, first and second paragraph has been considered but is moot since rejection no longer relied on.

In response to applicant's argument in page 11 that of O'Brian is not applicable because it does not anywhere mention the words "injection" or "elastomer", please refer to the last office action.

The rejections of all claims over the prior art of record have been maintained because it is well known to provide through holes in doll clothing to accommodate the head/limbs of the doll.

### ***Conclusion***

7. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. Erickson, Heppenstall and Forgarty all teach doll's garment having a through hole for the head/limbs of a doll.

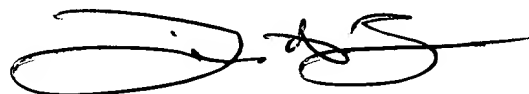
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8. **THIS ACTION IS MADE FINAL.** Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire **THREE MONTHS** from the mailing date of this action. In the event a first reply is filed within **TWO MONTHS** of the mailing date of this final action and the advisory action is not mailed until after the end of the **THREE-MONTH** shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than **SIX MONTHS** from the mailing date of this final action.

9. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Faye Francis whose telephone number is 571-272-4423. The examiner can normally be reached on M-F 6:30-3:00.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Mickey Yu can be reached on 571-272-4562. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.



**DERRIS H. BANKS**  
**SUPERVISORY PATENT EXAMINER**  
**TECHNOLOGY CENTER 3700**



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Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

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